IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2838 OF 2005

Chandbibi Mohammed Bilal .. Petitioner

V/s

Slum Rehabilitation Authority
and Ors. .. Respondents

Mr.Jaideep Mitra i/b V. Singh for the Petitioner.

Mr.G.D. Utangale for Respondent No.1.

Mr.S.G. Surana for Respondent No.2.

Mr.F. Pooniwala i/b Kanga & Co. for Respondent No.3.

WITH

WRIT PETITION (L) NO.3117 OF 2005

Behram Sudhar Committee Co-op.
Housing Society Ltd. .. Petitioners

V/s

The State of Maharashtra & Ors. .. Respondents

Mr.S.G. Surana for the Petitioners.

Mr. Pradeep Jadhav, A.G.P. for Respondents No.1 and 2.

Mr.G.D. Utangale for Respondents No.3 to 5.

Mr.Jaideep Mitra for Respondent No.6.

Mr.F. Pooniwala i/b Kanga & Co. for Respondent No.7.

CORAM : H.L. GOKHALE & ABHAY S. OKA, JJ.

DATE : 19TH JANUARY 2006

P.C. :

1. Heard the counsel for the parties. Rule. Rule is made returnable forthwith. Counsel for the respective respondents waive service.

2. Writ Petition No.2838 of 2005 is filed by one Chandbibi Mohammed Bilal pointing out that she is staying in a transit accommodation which is provided by Respondent No.3 in the scheme which is being developed for Respondent No.2 Co-operative Housing Society. Her prayer is that she should be allotted permanent accommodation in the rehabilitation building in the SRA Scheme as and when it is ready. This is on the footing that she has been held eligible for this allotment. The cross petition being Writ Petition (L) No.3117 of 2005 is filed by the above referred Respondent No.2 seeking to challenge the order in favour of the Petitioner holding her to be eligible under this SRA Scheme.

3. Mr.Mitra has appeared for the Petitioner in the first matter and Mr.Surana for Respondent No.2 Society which has filed the second petition. We have heard both the counsel as well as Mr.Pooniwala for the Developer.

4. When papers of both these papers are perused, it is seen that the Petitioner was residing in her matrimonial home as on 1st January 1995 and her name figures at Sr.No.186 Part No.70 of the Voters' list of Assembly Segment No.37 Kherwadi prepared on 1st January 1995. It is her case that on that basis she has been held eligible by appropriate order passed by the SRA. The SRA has also recorded on 9th March 2005 that the room, wherein the Petitioner was staying, was demolished and therefore she had been provided the alternative accommodation.

5. Mr.Surana for Respondent No.3 Society pointed out that the Petitioner was staying earlier in another hutment. He relies upon the photo pass given to her mother way back in the year 1977. Amongst the list of persons staying, the name of the Petitioner is seen at Sr.No.3. He points out that the said hutment had been sold by the brothers of the Petitioner and she has also signed on the sale document. Having heard Mr.Surana for Respondent No.2, what we note is that this is not a case of two parties claiming on the basis of one structure. The one which was occupied by the Petitioner's mother might have been sold and it would be some others who could be claiming on that basis. As far as the Petitioner is concerned, she is not claiming on the

basis of the hutment which was occupied by her mother since about 1977. She is claiming on the basis of the hutment wherein she lived with her husband and which was her matrimonial home and wherein her name figures at Sr.No.186 in the aforesaid voters' list of 1st January 1995.

6. This being the position, as far as Writ Petition (L) No.3117 of 2005 is concerned, the same is devoid of any merit. The order passed by the SRA holding the Petitioner to be eligible is perfectly justified and this petition will have to be dismissed and accordingly we dismiss the same.

7. As far as Writ Petition No.2838 of 2005 is concerned, obviously the Petitioner will be entitled to get an accommodation when the regular building is ready. Accordingly we allow this petition in terms of prayer (a). The Petitioner will be provided with the alternative accommodation in the regular building as and when the same is ready for accommodation.

8. The Petitioner has filed an affidavit pointing out that some persons staying in the same area and who are office bearers of the Society are harassing her. She has given their names. Mr.Surana accepts that one

of the two persons named in the affidavit is the Secretary and the other is a member of the Society. He states that nothing of the kind will happen hereafter.

9. As and when the regular tenement is ready, the Petitioner will shift there and thereafter hand over the transit accommodation back to the Developer. Both the petitions are disposed of.

(H.L. GOKHALE, J.)

(ABHAY S. OKA, J.)